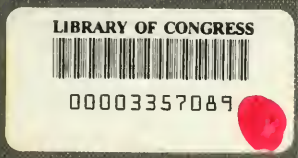

THE SIXTY-SECOND CONGRESS

THIRD SESSION.

IN RE THE CLAIM OF THE ESTATE OF GENERAL WASHINGTON

AGAINST

THE UNITED STATES

for 3051 Acres of Land Wrongfully Granted by It to Other Parties.

Argument Before the Committee of Public Lands as to the Form and Substance of the Relief Proper to be Granted by Bill to be Repealed.

NELSON W. EVANS,
Of Portsmouth, Ohio;

GREENLEE D. LETCHER,
Of Lexington, Virginia;

Counsel for the Estate.

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SIXTY-SECOND CONGRESS
THIRD SESSION.

IN THE MATTER OF HOUSE BILL NO. ————, FOR THE RELIEF OF THE ESTATE OF GENERAL GEORGE WASHINGTON.

Argument of Counsel for the Estate as to the Proper Findings and Report of the Committee in Charge of the Bill, Upon the Evidence and the Law Governing the Case.

Col. Robert E. Lee, Jr., of Fairfax county, Virginia, was appointed administrator de bonis non of the estate of Gen. George Washington, the first President of the United States, on October 29, 1907, and on the fifth day of December, 1907, this claim was presented to Congress, both to the Senate and the House. In the Senate, no action has been taken on the bill, except to refer it to the committee on claims, though it has been introduced in the sixtieth, sixty-first and sixty-second Congress, in both houses. In the sixty-first Congress, it was referred to the committee on private lands of the House, and that committee re-

ported unanimously that the facts on which the claim was based were true, and recommended the satisfaction of the claim in public lands.

In the present Congress, Representative Flood, of Virginia, introduced a bill for the satisfaction of the claim in public lands, and there have been hearings on it, but no report.

This claim arose in the Northwest Territory, in what is now the State of Ohio. That State has a practice in its courts for a party to file a request for findings of facts and conclusions of law, on a case pending, and that practice has proven very useful, and has been found to greatly aid the administration of justice. Following up such an idea, a request and suggestion of that character was made in the sixty-first Congress, and the same, but in a different form, is made here. This is done to aid the committee and to point out under the facts, the adjudicated cases, and the precedents of Congress, the only report which, under the facts and the law, in justice to the estate of Gen. Washington and in justice to the Congress of the United States, can be made.

The Facts.

The facts recited in the statement of Col. Robert E. Lee, Jr., administrator de bonis non of the estate of Gen. George Washington, appointed by the Fairfax Circuit Court, Virginia, on October 29, 1907, accompanying the bill, are correct and true, and are all matters of record in the public records of the United

States in its General Land Office; in the land office of the State of Virginia, at Richmond; in the Fairfax county (Va.) records; in the records of the Virginia legislature; and in the records of deeds of Clermont and Hamilton counties, Ohio. Where any documents constituting public records have been referred to, copies have been furnished the committee and it has used them in the preparation of this report.

All the matters furnished the committee, except the present value of the lands in question, are matters of public record in the United States and in the States of Virginia and Ohio, as to which there can be no controversy of any kind.

All the matters set forth in the printed records and arguments furnished the committee are true.

They occurred at a time when the owing of this claim was not contemplated.

First. At the close of the Revolutionary war, General Washington was the owner of two land warrants, one for 3000 acres and another for 100 acres, both of which were, by their terms, locatable on the lands of Virginia northwest of the Ohio river.

The 3000-acre warrant was issued to Capt. John Rootes, of Virginia, in 1763, for services in the French and Indian war, by Lord Dunmore. General Washington purchased this warrant on the fourteenth of February, 1774, and took an assignment of it. He held it till December 3, 1784, when he requested the General Assembly of the State of Virginia to issue him a continental warrant for it, which that body did

by joint resolution; and a new warrant to him as assignee was issued by the Virginia land office February 14, 1785.

The General Assembly of the State of Virginia, in its cession of the Northwest Territory to the United States in October, 1783, reserved the right to designate the beneficiaries of the Virginia Military Reservation, by general laws or specific resolutions, and took that course in regard to General Washington. That right of Virginia General Assembly has never been questioned, and it has been exercised by special resolution in cases too numerous to mention.

The Thomas Cope warrant for 100 acres was purchased by General Washington after the close of the Revolutionary war. He gave these two warrants into the hands of Col. John O'Bannon, formerly of Richmond, Va., who went to Kentucky in the summer of 1787, to make locations of these and other warrants placed in his hands. Upon the larger warrant, on January 17, 1778, he entered 839 acres in what is now Franklin township, Clermont county, Ohio, in entry No. 1650. On May 13, 1788, he entered 1235 acres on the same warrant on the east bank of the Little Miami river in what is now Miami township, Clermont county, Ohio. On May 12, 1788, he entered 936 acres, the remainder of the 3000-acre warrant and 51 acres on the Cope warrant, on 977 acres of land, 848 acres of which now lie in Union township, Clermont county, Ohio, and 129 acres of which lie in Anderson township, Hamilton county, Ohio.

On April 4, 1788, entry No. 1650 was surveyed, and on May 27, 1788, the entry No. 1765, for 1235 acres, was surveyed. On May 26, 1788, the 977 acres in the two counties of Clermont and Hamilton, No. 1775, was surveyed. These three entries and surveys were made in the name of General Washington and recorded in the survey books of Col. Richard C. Anderson, surveyor of the district, which books are now in the possession of the United States in the General Land Office.

The original surveys, made at the dates named, have recently been discovered to be in existence, and are now in the hands of Mr. Lawrence Washington, at the Library of Congress in Washington, D. C.

The surveys were, with the warrant, by mistake, returned to the land office at Richmond, Va., and a grant on each of the three surveys from the Governor of Virginia to General Washington was issued on December 1, 1790. General Washington was under the impression that the lands in the Virginia military district of Ohio having been reserved by Virginia, the surveys should be returned to the land office of that state, and it should issue the grants.

Notwithstanding the fact that he, as President of the United States, had signed the act of August 10, 1790, he continued under this impression as late as July 30, 1798, when he wrote to Col. Richard C. Anderson in regard to these surveys. That view was held by the owners of about 100,000 acres more of the same lands, who also procured grants from Virginia.

From August 10, 1790, until March 2, 1807, there grew up a wrongful practice of making second locations over first locations. The result was that until a first location was patented it was in constant jeopardy.

Congress, in the act of May 13, 1800 (vol. 2, p. 80), undertook to remedy this abuse in part, but the practice continued. General Washington had notice in the winter of 1798 that he was in danger from a second location on his lands. On the thirtieth of July, 1798, he wrote Col. Richard C. Anderson, the surveyor of the Virginia military district in Ohio, that he was apprehensive of this and stated that he regarded his title as perfect and would, if necessary, contest for it in the courts. Colonel Anderson replied to him September 5, 1798; assured him that his title was good, and had not up to that time been disturbed. He promised to notify him of any attempts to attack it, and made sundry suggestions.

Copies of the letter which General Washington sent Col. Anderson, preserved by him, and Col. Anderson's reply thereto are preserved in the Congressional Library.

General Washington made his will on July 9, 1799, and at that time was under the belief that his title to this land was unassailable. With his will, he prepared an inventory of his estate and sundry notes descriptive of his property for his executors. In those papers filed with his will, when offered for probate, he inventoried these lands, fixed a value on them,

and they were to be disposed of as a part of his residuary estate.

He valued the lands, 3051 acres, at $5 per acre as the land then stood in the original timber, and every one who has had occasion to consider that appraisement, regards it as reasonable and just.

No attempt was made to locate upon his lands until February 26, 1806, when Joseph Kerr, a deputy surveyor of the military district, made three entries, Nos. 4847, 4848 and 4882, covering completely and exactly General Washington's entries, Nos. 1650, 1765 and 1775, respectively.

It seems that notice of this hostile action reached Judge Bushrod Washington, one of General Washington's executors, for, on the fourth of March, 1806, he wrote to the register of the Virginia land office at Richmond, asking for the warrants and papers connected with the title to those three tracts. This letter was carried by Chief Justice Marshall in person. On March 14, 1806, the executors of General Washington, Judge Bushrod Washington and Colonel Lawrence Lewis, his nephews, presented a petition to Congress, asking it to confirm their title to these three surveys. The matter went over to the second session, at which time it was discussed in the committee of the whole and a bill introduced and passed, March 3, 1807, vol. 2, page 437, United States Statutes at Large.

This act was in the form of a general law and was intended to relieve all other persons whose lands

were in the same situation as those of General Washington; but it was enacted expressly to give title to these particular lands belonging to the estate of General Washington.

The presentation of the petition by the executors of General Washington for relief called attention to the great evil of second locators undertaking to seize and appropriate previous locations, and as a consequence Congress enacted the famous proviso of March 2, 1807 (vol. 2, p. 424), which was intended to forever cut off the practice of making second locations. This proviso was re-enacted ten times subsequently, as shown in the administrators' brief, the last time, February 20, 1850.

In passing the act of March 2, 1807, to prevent second locations, and that of March 3, 1807, to relieve the estate of General Washington, the ninth Congress thought it had forever put an end to the evil of second locations, and it did as to all future locations. It also considered it had secured the lands of General Washington to his estate, but Kerr, the deputy surveyor, was not to be thwarted. On May 20, 1806, he covered General Washington's survey No. 1650, for 839 acres, by one No. 4847, in the name of Gen. John Neville. He covered General Washington's survey No. 1765 with another in the name of Gen. John Neville, No. 4848, and he covered General Washington's survey No. 1775 with another in the name of Maj. Henry Massie, which bore the number 4862.

In making these three new surveys, appropriating all three of General Washington's surveys, he used the field notes of the latter. The two Neville surveys were made in the name of Gen. John Neville, who had departed this life July 20, 1803. Joseph Kerr procured the patents to the two Neville surveys 4847 and 4848 to issue in the name of Presley Neville and Amelia Craig, son and daughter of Gen. John Neville, on April 30, 1807, and on January 8, 1808, he procured a patent to issue to Maj. Henry Massie on his survey 4862, which covered General Washington's survey No. 1775.

It will be observed that while the act of March 3, 1807, gave the executors of General Washington five years from March 23, 1807, in which to return their surveys and receive patents, the executors were cut off from so doing on two of the surveys on April 30, 1807, and on the third one on January 8, 1808.

Thus, while the proviso of March 2, 1807, saved all first locations after its date until the close of the district on December 31, 1851, the estate of General Washington, by the improper action of officers of the United States, in recognizing Kerr's entries and surveys, in issuing the two patents to Gen. John Neville's devisees and the one to Maj. Massie, entirely defeated the purpose of the ninth Congress in passing the act of March 3, 1807, to give General Washington's executors the title to the lands he had surveyed in 1788; and while the threatened loss of his estate, which afterwards became actual, saved the people of

the Virginia military district in Ohio from second locations, at the same time General Washington's estate lost the lands he had located in Ohio and which he and his executors had held peaceably for eighteen years.

The intention of the act of March 3, 1807 failed. Congress was under the impression in passing that act that no adverse claim to the completion of General Washington's title existed and had there been none, his executors would have completed it, as was intended by the act. What we claim is this, that Congress, having undertaken to make General Washington's title good to these lands, and that attempt having failed, the present Congress is bound to undertake and perform what failed under the action of a former Congress. *Nullum Tempus occurrit republica.* If this obligation was assumed and undertaken by the Government, it is bound to carry it out without reference to the passage of time.

The abstract of the title furnished this committee shows that in 1811 Joseph Kerr, the deputy surveyor, who appropriated General Washington's lands, purchased the two Neville surveys, Nos. 4847 and 4848, of his heirs and afterwards sold and conveyed them to other parties. Maj. Henry Massie sold and conveyed his survey, 4862, covering General Washington's survey No. 1775, and there is a complete chain of title from Kerr and Massie to the present owners of the lands.

The committee will find that the lands out of which General Washington's surveys were made were ac-

cepted from Virginia by the United States on March 1, 1784, in trust for the satisfaction of Virginia military bounty-land claims of the same character as those held by General Washington, in his Rootes warrant for 3000 acres, No. 3753, and in Cope warrant for 100 acres, No. 3670.

General Washington himself was a major general of the State of Virginia, and as such entitled to 23,333.33 acres of Virginia military continental bounty land, but he had previously refused to accept any compensation for his services as General of the Army of the United States, and hence he could receive no bounty lands from the State of Virginia, but he could ask, and did ask lands for the like claims which he had purchased, and his application to the General Assembly of Virginia, 1784, and his letter to Col. Anderson, 1798, disclose that he had the utmost faith in his claim and was persistent in its being satisfied. Had he but lived a few years longer had been permitted to attend to his business, we would not have been here today asking this relief.

When this trust was created, no time was fixed in the contract between Virginia and the United States in which its execution was to be completed, and none has ever been fixed subsequently.

That this obligation of the United States to satisfy this claim was recognized and affirmed in the first clause of Article VI of the Federal Constitution.

Because of the language of the first clause of Article VI of the Federal Constitution, this claim

was not subject to and could not be made subject to any statute of limitations.

The clause in question reads, "all debts contracted and engagements into, before the adoption of this Constitution, shall be as valid against the United States, under this Constitution, as under the Confederation."

This particular claim was one of those contemplated by and included in the above language, and the effect was the claim being once recognized in the Constitution and required to be paid, could not be barred by any statute of Congress, though the effort was tried by the act of March 3, 1899, and the language used for the purpose was inserted by Senator Cockerel of Missouri, and was the first time in the history of the government when the Federal Constitution was sought to be repealed by a simple act of Congress. Senator Cockerel had overlooked the fact that a provision of the Constitution is as much in full force every day as it was on April 30, 1789, when President Washington was inaugurated. Under that provision, the claim could not be barred by any act of Congress and the claim could be presented and insisted on as long as the evidence to sustain it could be preserved and presented.

The first Congress of the United States in the act of August 10, 1790, accepted this trust and undertook its performance.

In the compact between the United States and the State of Virginia, expressed in the resolution of the

General Assembly of Virginia of date Apriil 12, 1852 (Virginia, acts of 1852, p. 318), and in the act of Congress of August 31, 1852 (vol. 10, p. 143), known as the "scrip law," and in the resolution of the General Assembly of Virginia of date December 6, 1852 (Virginia, acts of 1852, p. 357), accepting the scrip law, there was no limitation on this obligation. There has been no further compact between December 6, 1852, and the present time, and consequently no limitation of any kind exists to the demand for the allowance of this claim. It is an obligation, a part of the public debt of the United States and, as such, governed by the provisions of the first clause of the sixth article of the Constitution, and by section 4, of the fourteenth amendment, and that claimants have the right to demand its satisfaction and payment, so long as there is any representative to demand its payment, and so long as the evidence can be procured to establish it.

LACHES.

Considerable has been said about laches to this claim, but any one who has read and considered Article VI of the Constitution as affecting this claim, will readily perceive that no laches can be applied to it. Article VI of the Constitution recognizes the claim and directs its payment and this clause having this force and effect is as much law to day as it was the day our Government started, April 30, 1789.

Moreover, the claim was, on the adoption of the Fourteenth Amendment in 1868, a part of the public

debt of the United States, and such can never be questioned. Hence, this claim is entrenched in the Constitution in two places and no doctrine of laches can apply in a case of that kind. The situation of parties have not changed and no rights of third persons have intervened.

The doctrine of laches has and can have no application in this case. The doctrine does not apply between the original parties, or where their situations have not changed, as herein. It can not be pleaded against the government. *Nullum tempus occurrit reipublicae.* By correlation the individual can not be limited in his right to present a claim against the Government, unless the limitation was embraced in the act creating the claim, which is not this case.

The doctrine of laches is only applied to prevent the claimant from doing a wrong and in this case no wrong is done by the cestui que trust, for demanding the trust fund, or its equivalent, from the trustee. The United States was the trustee and held the trust fund, in land, to satisfy the claim. It wrongfully permitted its officers to turn the trust fund, pledged by the act of March 3, 1807, to the executors of General Washington, over to persons not entitled to it, in defiance of the pledge of the act last referred to. Had the proper officers of the United States said to Surveyor Kerr, or Neville and Massie, after the passage of the act of March 3, 1807, "You must withdraw your warrants, entries and surveys from the Washington lands," and compelled them to do so, or had

they done so voluntarily, then the act of March 3, 1807, with its ten extensions of time, to January 1, 1852, would have secured these lands to the Washington estate.

No statute of limitations or doctrine of laches can operate between trustee and cestui que trust, as was this case.

The Walton Case.

The act of May 18, 1826, (Vol. 6, U. S. Statutes, page 243) was for the relief of James Walcott and Mary, his wife. Congress gave them $1920 for a section of land which had been set apart for them by an Indian treaty of October 6, 1818, which the United States afterwards seized and sold, by mistake.

The Governor McArthur Case.

In the early history of the Virginia military district of Ohio, there was a controversy as to its western line between the sources of the two rivers, the Scioto and Little Miami. The first line established was that of Ludlow, but afterwards the Robert's line, north of the Greenville treaty line, was established. There was quite an extent of territory between the two lines.

The surveyor of the United States had assumed the Ludlow line to be the correct one and had surveyed the land west of it into townships and sections and portions of it had been offered for sale and sold by

the United States to innocent purchasers, who had entered on the lands and made improvements.

A number of the holders of Virginia military bounty-land warrants of the same character of those of General Washington had made locations upon these warrants on the very same lands which the United States had sold as government land, and the question was at once raised as to the character of the land. Was it in the Virginia military reservation or not?

There were 14,000 acres in seven surveys, the warrants for which had at one time belonged to General Duncan McArthur, once a member of Congress and later a governor of Ohio.

A case was made up to determine the matter, and it was taken to the Supreme Court of the United States. The decision there is found in Doddridge v. Thompson (9 Wheaton, 469), and the decision made May 16, 1824, was in favor of the Virginia military warrant locators. The United States was left in the position of having sold the lands of the Virginia reservation to innocent purchasers who had gone into possession and made improvements. The Virginia warrant claimants had never taken possession under their claims, and in making their entries and surveys, had knowingly, intentionally and purposely made them on lands that had been sold by the Government and were in possession of the purchasers. Several were entered and surveyed on lands already patented. As to General Washington, he was the first locator on his 3051 acres and remained such for eighteen years.

On May 26, 1824, Congress passed an act to ascertain the number of acres of lands between Ludlow's and Robert's lines located on Virginia millitary warrants, and on what terms the holders of the Virginia warrant locations would relinquish their claims (Vol. 4, p. 189). A committee of appraisement was selected by the president, and the lands were all appraised without improvements, as in virgin forest, and the appraisement returned. The holders of the locations agreed to take the amount of appraisement, with interest from the presentation of their respective claims, and the act of May 26, 1830, (Vol. 4, p. 405), was passed to pay these claims.

On February 12, 1831, (Vol. 4, p. 440) another claim was recognized and a bill passed to satisfy it. The two bills at the date of their passage carried an appropriation of $84,445.97.

The act of May 26, 1824, was passed ten days after the decision of Doddridge against Thompson, 4 Wheaton, 469. It refers to certain principles announced by Chief Justice MARSHALL, in the decision. Those principles are not in the reported case, but will be found in the House Document, First Session, Nineteenth Congress, Report 145, House of Representatives. This report was made in pursuance of the act of May 24, 1824, supra, and established the principle that in cases where lands already located and set apart for the satisfaction of particular warrants, had been improperly appropriated by the United States through the unlawful and mistaken acts of its officers,

they should be paid for in money, valued without improvements, as in the original timber. This was the principle announced by Chief Justice MARSHALL.

Interest was to be allowed on the valuations as of the date when the claims were presented. In the Gen. Duncan McArthur case, that date was March 4, 1825. In this case it is December 5, 1907. The two bills of 1830 and 1831 had as principal sums $62,515.25 and $1765.68, respectively and when the appropriations were made interest had accrued to the amount of $20,165.04 more, on the two appropriations.

Col. Robert E. Lee, Jr., the administrator, in presenting this claim as the personal representative of Gen. George Washington, has followed the precedents established by the acts of 1824, 1830 and 1831, and the committee's report to Congress last referred to. He has had the land valued, as without improvements and as standing in the original timber by three judicious, disinterested freeholders of the vicinage, experts in land values, men of high professional, social and business standing, Mr. William R. Fee, vice president of the Citizen's National Bank of Milford, Ohio, a village lying between the two Washington surveys, on the Little Miami river, and president of the Ohio Valley Bank of Portsmouth, Ohio; Judge Frank Davis, a bank director of Batavia, Ohio, and now a common pleas judge of the state, and Mr. John Nichols, a resident of Anderson township, Hamilton county, Ohio, near where the Washington survey 1775 lies, a gentleman eminent in the legal profession at Cincinnati, Ohio. These gentlemen were as suitable for the purpose as could have been selected by the United States.

In our opinion, the case of the estate of General Washington is a much stronger one than those of the Virginia locators between the Ludlow and Roberts' lines. There was never any question as to the lands located upon being a part of the Virginia military district of Ohio. Congress affirmed and approved his locations in the act of August 10, 1790, (Vol. 1, p. 182); again in the act of May 13, 1800, (Vol. 2, p. 80); and in the act of March 3, 1807, (Vol. 2, p. 437), and in the latter act undertook to make them absolutely good.

The Continental Congress provided a compensation of $6000 per year to General Washington as commander in chief of its armies, which would have amounted to $48,000. General Washington declined any compensation and thus left in the treasury of the struggling government $48,000. He also declined to take and use the bounty land provided by the State of Virginia and the satisfaction of which had been assumed by the United States. This amounted to 23,333.33 acres and the right to immediate entry of which was estimated by the committee on claims in 1909, to be worth $233,333.33. Then General Washington gave to the treasury of his country money and lands to the value of $281,333.33 which was 53 per centum of the estate of which he died seized.

At any time after the enactment of the law of May 26, 1824, the personal representative of General Washington could properly ask the benefit of the precedent established by that act and he has now done so. He could have returned the surveys at any time until January 1, 1852, and thus established a claim, but after the act last referred to he had the option to ask for satisfaction in money. The committee

should regard the act of March 3, 1807, and its several extensions and renewals, as equivalent in this case, to a bond of the United States, held by the personal representative of General Washington and which must be redeemed.

The United States received the land to pay this debt from the State of Virginia, but used it to pay other debts. It received from General Washington gifts to the value of $281,333.33. It can never repay the debt of gratitude it owes him for his services rendered in the Revolutionary war and as its first President, but it can pay the debt it owes his estate for the diminution of his private fortune and not be out a dollar.

I may be regarded as erratic, but in my view, and in view of the provision of the Constitution cited and its operation and effect, this claim is as good, fresh, and just as it was when the Federal Constitution of 1787 inserted the language quoted in the instrument. Hence, this claim and all of its class are of perpetual obligation and when presented, sustained by the proper evidence, should and must be paid. A claim recognized by the Constitution and by it required to be paid, can never become stale.

All will admit that Washington was the greatest citizen of this nation and yet his personal representative, himself, a direct descendant of the wife of General Washington, has been waiting on Congress for action on this claim ever since December 5, 1907, and no action has been taken.

Does Congress mean to pay this claim or not? It has been pending nearly five years and no action on it except the report of a committee in the expiring hours of the 61st Congress. Now, the facts of this claim

are all of record and none of them can be controverted or gainsaid, not in a thousand years.

Under the precedents established under the decisions of the Supreme Court, Doddridge vs. Thompson, 4 Wheaton, 469, and Jackson vs. Clark, 1 Peters, 666, and the acts of Congress of March 26, 1830, Vol. 4, 405, and February 12, 1831, Vol. 4, 440, the personal representative of General Washington is entitled to be paid for these lands in money. That right has been fixed and settled by the two decisions of the Supreme Court before recited and the two acts of Congress before given, and surely the estate of our First President ought to be treated as well as a member of the lower house of Congress, or the governor of a state. The question is, what should the measure of damages be? It should be the value of the land in question as of the last day he could call on the United States to give him a patent for the land. That last day was December 31, 1851. How can we find the value as of that day?

The land was worth $5 per acre, or $15,255 on July 9, 1799. That was General Washington's own appraisement, afterward accepted and approved by the Probate Court of Fairfax county, Virginia, in 1800. Then this land was appraised on October 1, 1907, by three of the best appraisers who could be found, and they fixed it at $100 per acre, an increase of $95 per acre in a period of 108 years. That would be an increase of $2683.66 a year for 108 years. For the period from 1799 to December 31, 1851, would be a period of 52 years at $2683.66 per year would be $139,540.32, but as the increase was figured with the $15,255 left out, that should be added, and it makes $154,795.32 and that sum should be allowed with in-

terest from December 5, 1907, till paid, on the same principle and according to the same precedent as the Walton claim and the Governor McArthur claim. To allow General Washington only 3051 acres of public lands would in effect, allow his estate but $30,510, or ten dollars an acre, when his lands were worth but half that sum 108 years ago, and would only allow him an increase of $5 per acre in 108 years. Then his estate might not realize $10 per acre from these lands. That is simply the very highest they could hope to realize. The estate might realize very much less. The reason we stop increase of the land on January 1, 1852, is because at that date, the district was closed and therefore the United States should not be compelled to allow his estate increase of the land except from the date of demand of payment.

That method relieves the estate from the payment of interest after January 1, 1852, to December 5, 1907, a period of 55 years, and that should be lost because there was no demand for payment.

This plan gives the estate the value of the lands on January 1, 1852, and only grants interest from demand and in default of payment. There is no other case like General Washington's, but there are other scrip cases which would claim the benefit of the precedent established in the proposed bill. For the United States to offer the estate of General Washington the sum of $30,000 on a claim of $154,795.32 is a disgrace to the United States, an insult to the memory of the father of his country. Were we the personal representative of the heirs of General Washington, we would decline to accept any satisfaction in public lands. That form of satisfaction puts a premium on the dishonesty of U. S. Senator Kerr, who robbed

General Washington's estate and lets him get away with the Washington lands, while it puts the Washington estate in the condition of parties who had obtained land scrip but never located it, when in fact, the Washington estate would have received this land just as the ninth Congress intended he should, if the officers of the United States had properly guarded against the wrongdoing of U. S. Senator Kerr.

There is no doubt that Senator Kerr, in making the entries and surveys numbered 4847, 4848 and 4862 over and covering Washington's surveys numbered 1650, 1765 and 1775, knew that he was covering and appropriating General Washington's entries and surveys made eighteen years previous and the records originally kept at Louisville, Ky., and Chillicothe, Ohio, now in the Land Office, together with records originally filed there, all indicate that Senator Kerr knew he was appropriating the lands of General Washington's estate, and the United States officers of that time could have so known, but permitted the appropriation to be successful.

While an Indian woman, a congressman and a state governor in a like situation, have been paid in full, the lands lost under the same circumstances, for five years, Congress has failed to accord the estate of our First President the same relief.

We have prepared a bill such as we think ought to be reported as the proper and only satisfaction of this claim, in view of the previous adjudged cases and precedents and we ask that it be reported by your committee and recommended for passage.

Nelson W. Evans, Portsmouth, Ohio.

Greenlee D. Letcher, Lexington, Va.

WASHINGTON BILL.

62ND CONGRESS SESSION.

IN THE HOUSE OF REPRESENTATIVES.

A BILL

To reimburse the estate of General George Washington for certain lands of his in the State of Ohio, lost by conflicting grants made under the authority of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

Sect. 1. That the secretary of the treasury be, and is hereby, directed to pay to Colonel Robert E. Lee, junior, administrator de bonis non with the will annexed of General George Washington, the sum of $154,795.32, with interest thereon from the fifth day of December, nineteen hundred and seven, at 6 per centum per annum until paid, the value of three thousand and fifty-one acres of land in the Virginia military district of Ohio at one time owned by him and his estate and improperly taken from his executors and devisees by grants issued by the United States on junior conflicting surveys.

Sect. 2. That the act of March third, eighteen hundred and ninety-nine, entitled, "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred, and for other purposes," in so far as it required Virginia military land warrants to be presented and surrendered to the secretary of the interior within twelve months from the passage of said act or be forever barred and invalid, is hereby repealed.